

**ASSEMBLY BILL**

**No. 1533**

**Introduced by Assembly Member Leach**

February 26, 1999

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An act to amend Section 336 of the Code of Civil Procedure, relating to real property.

LEGISLATIVE COUNSEL'S DIGEST

AB 1533, as introduced, Leach. Real property: restrictions.

Existing law provides that an action for violation of a restriction, defined to mean a limitation on, or provision affecting, the use of real property in a deed, declaration, or other instrument, whether in the form of a covenant, equitable servitude, condition subsequent, negative easement, or other form of restriction, shall be commenced within 5 years, as specified. Existing law provides that a failure to commence this action does not waive the right to commence an action for any other violation of the restriction.

This bill would exempt from this limitation an action against the governing association of a common interest development. It would also provide that a failure to commence an action does not waive the right to commence an action for any subsequent violation.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 336 of the Code of Civil  
2 Procedure is amended to read:  
3 336. Within five years:  
4 (a) An action for mesne profits of real property.  
5 (b) An action for violation of a restriction, as defined  
6 in Section 784 of the Civil Code, *except an action against*  
7 *the association of a common interest development, as*  
8 *defined in Section 1351 of the Civil Code.* The period  
9 prescribed in this subdivision runs from the time the  
10 person seeking to enforce the restriction discovered or,  
11 through the exercise of reasonable diligence, should have  
12 discovered the violation. A failure to commence an action  
13 for violation of a restriction within the period prescribed  
14 in this subdivision does not waive the right to commence  
15 an action for any other *or subsequent* violation of the  
16 restriction and does not, in itself, create an implication  
17 that the restriction is abandoned, obsolete, or otherwise  
18 unenforceable. This subdivision shall not bar  
19 commencement of an action for violation of a restriction  
20 before January 1, 2001, and until January 1, 2001, any other  
21 applicable statutory or common law limitation shall  
22 continue to apply to that action.

